



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Donald G. Eaves, D.C.

Respondent Name

ACE American Insurance Company

MFDR Tracking Number

M4-17-2694-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

May 12, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "It is my position that code 99456 W5 NM should be paid full amount charged of \$350, code 99456 W6 RE should be paid for full amount charged of \$500, and code 99456 W7 RE should be paid at reduced amount of \$250. This totals \$1100 reimbursement for the services provided on DOS 01.20.2017 as ordered by the presiding officer's directive. This leaves an unpaid balance of \$225 which is the amount that was reduced from code 99456 W5 NM on the 2nd EOB."

Amount in Dispute: \$225.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Our initial response to the above referenced medical fee dispute resolution is as follows: we have escalated the bills in question for manual review to determine if additional monies are owed."

Response Submitted by: Gallagher Bassett

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 20, 2017	Designated Doctor Examination	\$225.00	\$225.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.10 sets out the requirements for completing a medical bill.
3. 28 Texas Administrative Code §134.235 sets out the fee guidelines for return to work and evaluation of medical care examinations performed on or after September 1, 2016.

4. 28 Texas Administrative Code §134.240 sets out the fee guidelines for designated doctor examinations performed on or after September 1, 2016.
5. 28 Texas Administrative Code §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating performed on or after September 1, 2016.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 00084 – (16) Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
 - 00121 – (59) Processed based on multiple or concurrent procedure rules.
 - 00223
 - P12
 - W3
 - Z710
 - 00214

Issues

1. Is ACE American Insurance Company's reason for reduction of payment supported?
2. Is Donald G. Eaves, D.C. entitled to additional reimbursement for the disputed services?

Findings

1. ACE American Insurance Company (ACE American) reduced the disputed examination to determine whether the injured employee's disability is a direct result of the work-related injury, represented by procedure code 99456-W7-RE, with claim adjustment reason code 00084 – "(59) CLAIM/SERVICE LACKS INFORMATION OR HAS SUBMISSION/BILLING ERROR(S) WHICH IS NEEDED FOR ADJUDICATION."

Review of the submitted information supports that the services in question were billed in accordance with 28 Texas Administrative Code §133.10. ACE American failed to support the reduction of payment based on this reason.

2. 28 Texas Administrative Code §134.250(2)(A) states, "If the examining doctor, other than the treating doctor, determines MMI has not been reached, the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this section. Modifier 'NM' shall be added."

Paragraph (3) states, "The following applies for billing and reimbursement of an MMI evaluation... (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350." The submitted documentation supports that Dr. Eaves performed an evaluation of maximum medical improvement (MMI) and found that the injured employee was not at MMI.

28 Texas Administrative Code §134.235 states, in relevant part:

The following shall apply to return to work (RTW)/evaluation of medical care (EMC) examinations. When conducting a division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT code 99456 with modifier "RE." **In either instance of whether maximum medical improvement/ impairment rating (MMI/IR) is performed or not** [emphasis added], the reimbursement shall be \$500 in accordance with §134.240 of this title and shall include division-required reports...

Further, 28 Texas Administrative Code §134.240(2) states:

When multiple examinations under the same specific division order are performed concurrently under paragraph (1)(C) - (F) [emphasis added] of this section:

- (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in §134.235 of this title;
- (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in §134.235 of this title; and
- (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in §134.235 of this title.

Examinations to determine maximum medical improvement are performed under 28 Texas Administrative Code §134.240(1)(B). Therefore, the tiered reimbursement found in Subsection (2) does not apply. The total reimbursement allowed for this examination is \$350.00.

Review of the submitted documentation finds that Dr. Eaves also performed examinations to determine the extent of the compensable injury and whether the injured employee’s disability was a direct result of the compensable injury.

Examinations to determine the extent of the compensable injury and whether the injured employee’s disability was a direct result of the compensable injury are performed under 28 Texas Administrative Code §134.240(1)(C) and (D). These examinations are subject to the tiered reimbursement found in Subsection (2). The total reimbursement allowed for the examination to determine the extent of the compensable injury is \$500.00. The total reimbursement allowed for the examination to determine whether the injured employee’s disability was a direct result of the compensable injury is \$250.00.

The total reimbursement allowed for the disputed services is \$1,100.00. ACE American reimbursed \$875.00. An additional reimbursement of \$225.00 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$225.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$225.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	_____ Laurie Garnes _____	_____ June 23, 2017 _____
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.